

**2004 ENVIRONMENTAL NEGOTIATIONS COMPETITION  
CONFIDENTIAL INSTRUCTIONS FOR POLLAK/MAD MAX  
ROUND 1**

Pollak/Mad Max (which are really one in the same) recognize that they have a tough legal position under *Hansen Brothers*. On the other hand, the property is worth a fortune as a site for development if Max can continue operations for a sufficient period, although it will be expensive to reclaim the quarry and build it out. Continued operation of the quarry will generate income and allow completion of both development plans and negotiations with investors. Seven or eight years of quarry operation would be very helpful.

Max realizes that he has to reach some accommodation with the neighbors, even though he personally despises Natalie Harrison. The key for Max is time and volume for the quarry.

1. Duration of Use.

Max wants no less than 7 years at the site, and no volume limits. He knows that Natalie Harrison is obsessed with Lerner Hill and will trade time and volume in the main pit to leave Lerner Hill untouched. Max needs a set time period to ensure bank financing. You should get what Max wants here.

2. Conditions of Use.

Max wants volume. Do the best that you can on each of these issues.

A. Hours of Operation: Max wants to operate 7 days a week, 15 hours a day, but recognizes that he can't get it. The quarry is a profitable enterprise. Max can make money operating 5 days a week, 12 hours a day, but anything in excess of that creates substantial profit. Get what you can.

B. Truck Traffic: Max's trucks are bigger than they were in 1982. He can live with the 1982 level of traffic. You can concede this, but make it seem like a substantial concession. Approved routes for trucks, on-going maintenance and a modest annual fee of no more than \$15,000 to the county are all fine.

C. Noise: Max can agree to some ambiguous statement about best available noise controls. It's not clear what this means (although there are special mufflers and maintenance guidelines that could reduce noise), and Max (and you) can argue about the exact meaning later.

D. Vibration/blasting: Max can blast in a tight time window, so is agreeable to restrictions, but wants the flexibility to blast outside of the time window under very limited conditions (based on operational needs) as long as he gives sufficient notice. Max understands the sensitivity of this issue and is conciliatory.

3. Monitoring and Dispute Resolution

Max doesn't want a monitor, but will live with it. Reports should be few and far between and the monitor should have no authority. Max will agree to allow the County some oversight rights, assuming that the County agrees. You have some flexibility to work something out, but Max will not agree to a liquidated damages provision (setting forth the penalty for any particular violation).